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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,882	03/31/2004	Salvatore Peragine	267.174	5748
47888	7590	01/11/2007	EXAMINER	
HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			WILKINS III, HARRY D	
		ART UNIT	PAPER NUMBER	
		1742		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	01/11/2007		PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/813,882	PERAGINE, SALVATORE	
	Examiner Harry D. Wilkins, III	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,11,18 and 19 is/are rejected.
- 7) Claim(s) 6-10 and 12-17 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The full name of each inventor (family name and at least one given name together with any initial) has not been set forth. (The blank for the inventor's name appears to have been unintentionally left blank. The inventor's family name appeared on various transmittal sheets accompanying the application. The inventor's given name was found on the cover page of the preliminary amendment filed with the application.)

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 11, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Macken (US 3,941,676).

Macken anticipates the invention as claimed. Macken teaches (see drawings) an expandable anode comprising two opposed main surfaces (10) secured to a support structure (24) and separated by a hollow space housing a reversible expansion device (14) in its interior.

Regarding claim 2, Macken teaches (see col. 4, lines 1-13) using expanded titanium sheets coated with a catalytic platinum group metal.

Regarding claims 3 and 4, the reversible expansion device (14) of Macken was capable of operating such that the opposed main surfaces were forced into a spread out position when the cell was assembled and in a restrained position when the cell was disassembled. The extent of the expansion was capable of being present prior to assembling the cell.

Regarding claim 5, the reversible expansion device (14) included a first elastic component (16) fixed to the main surface connected to a shaft (14) capable of reversible shifting of the main surfaces provoking the expansion or contraction thereof.

Regarding claim 11, Macken teaches (see col. 3, lines 54-68) making the rotatable shaft with a titanium coating to make it corrosion resistant to the chlorine environment. Although Macken does not teach the composition of the clips (16) one of ordinary skill in the art would have immediately envisaged making them from similar (or the same) corrosion resistant material, such as titanium.

Regarding claims 18 and 19, Macken teaches (see col. 1, lines 9-30) that the expandable anodes were suitable for use in the electrolytic cells of US 3,674,676. That cell is a bipolar diaphragm cell for a chlor-alkali electrolyzer.

5. Claims 1-5, 11, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Byrd (US 4,283,265).

Byrd anticipates the invention as claimed. Byrd teaches (see drawings, particularly figures 5 and 6) an expandable anode comprising two opposed main surfaces (1,2) secured to a support structure (3) and separated by a hollow space housing a reversible expansion device (10) in its interior.

Regarding claim 2, Byrd teaches (see col. 4, lines 16-29) using titanium sheets coated with a catalytic platinum group metal.

Regarding claims 3 and 4, the reversible expansion device (10) of Byrd was capable of operating such that the opposed main surfaces were forced into a spread out position when the cell was assembled and in a restrained position when the cell was disassembled. The extent of the expansion was capable of being present prior to assembling the cell.

Regarding claim 5, the reversible expansion device (10) included a first elastic component (transverse bars, 9) fixed to the main surface connected to a second mobile component (spacing member, 10) capable of reversible shifting of the main surfaces provoking the expansion or contraction thereof.

Regarding claim 11, Byrd teaches (see col. 4, lines 30-38) making the spacing member from titanium. Although Byrd does not teach the composition of the transverse

bars (9) one of ordinary skill in the art would have immediately envisaged making them from similar (or the same) corrosion resistant material, such as titanium.

Regarding claims 18 and 19, Byrd teaches (see col. 1, lines 4-58) that the expandable anodes were suitable for use in diaphragm chlor-alkali electrolyzers.

***Allowable Subject Matter***

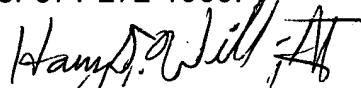
6. Claims 6-10 and 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry D. Wilkins, III whose telephone number is 571-272-1251. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy V. King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Harry D. Wilkins, III  
Primary Examiner  
Art Unit 1742

hdw